

Hoosier Public Radio Corp  
15 Wood St  
Greenfield IN 46140

August 21, 2004

Federal Communications Commission  
445 12th Street SW  
Washington D.C. 20554

Re : BRED 20040402ABF  
BPED 20040701AEF

To : Audio Division, Media Bureau

Opposition to Petition To Dismiss Time Share Application and  
Informal Opposition  
Motion To Correct Errors

Petitioner has received a filing from Western Kentucky University concerning the time share application filed referenced above. As the Petition was filed August 2, 2004 we believe the August 19, 2004 filing is defective and should be dismissed.

Petitioner notes the Licensee or a member or officer failed to sign or certify the filing and this makes the filing defective.

Use by Western Kentucky University

The full power station which Western Kentucky University has been using has not served a local purpose or need in the time it has been on the air. There is no main studio and there is no local programming. This fact alone, which remains undisputed by the most recent filing, is uncontested by the Licensee, or whomever the filing represents. No certification from the applicant was provided.

Using a full power station to rebroadcast another station also means that the application submitted was defective and a misrepresentation has taken place. The applicant certified they had a local studio but do not.

If you violate one Commission Rule to meet another this doesn't meet the test of the Communications Act or the intent. No local studio means no programming that meets the intent of the Communications Act.

Western Kentucky University is using the channel to warehouse a frequency they might use later. The real picture here is less kind and more appropriate : a dog marking it's territory. I can use it but you can't. I will not serve the local area I cover but I don't want you to.

More importantly, these are the issues which can be raised at a Hearing on the matter, or before the full Commission. The Hours of operation with rebroadcasts from another City and no acts by

the "local" applicant to serve the community are the reason the Commission designates a Hearing on such matters.

#### Petition Deadline

Changes within the CDBS system precluded anyone from filing a time share application. The Commission has not publicly acknowledged this but the Petitioner did timely file a time share application and has proposed to modify this application but notes a timely filing, of which the Licensee (Western Kentucky University) did receive notice.

The Petition is timely.

#### Negotiations

So why does the Commission establish time share applications? Chief Engineer Chris Scott puts it bluntly and best: "I state on behalf of the licensee that neither it nor station WKPB has any interest in sharing its frequency with Hoosier Public Radio."

Despite phone calls and the attached letter sent there have been no returned phone calls or attempts to negotiate. The Licensee has decided it will only mark it's territory and not serve the local community.

#### Hearing Issues

The large employment unit of Western Kentucky University and it's EEO history are of concern. There are other matters which will be established. This is why a Hearing is apparently the next step in this process.

There is no meaningful management presence at the transmitter site and there is no way for the local population to interact with the community. There is no public file, no local issues and answers, no way for this station to be what the Communications Act had intended.

#### Possible Resolution

An engineering solution in which the Commission would allow a waiver of it's Rules for establishment of another station, while allowing modifications to it's existing application outside of the time window is a possible solution which Hoosier Public Radio wishes to pursue if Western Kentucky University is too good to provide local programming or share it's frequency.

Petitioner is open to an engineering proposal from Western Kentucky University, with appropriate waivers from the Commission to allow another station, on another frequency, to be provided for the use of Hoosier Public Radio. If a waiver is granted (similar to the case of MXed applications) Western Kentucky University could locate another channel which with approval from the Commission and appropriate waivers, could be established for Hoosier Public Radio Corporation.

Hoosier proposes this channel would be within 3 channels of the existing application but would need waivers to allow : 1) City Of License change, 2) non overlap of application contours; 3) Modifications outside of a window to resolve an Mxed application; and 4) other Rules related to a new station and movement to allow same.

#### CONCLUSION

Western Kentucky University has presented it's hostility to the Commission and it's unwillingness to use it's Licensed facilities for local use but is willing to deny others to do what they are supposed to be doing. It has no local studio and provides no local service.

While the Commission has Haerings on localism we know that Western Kentucky University is not the only station that has no local interaction.

Petitioner has filed the time share application to meet the public need and necessity and to ask the Commission to set a standard for what they expect of local stations.

Petitioner requests the Commission establish a standard for all broadcast Licensees to meet, which Western Kentucky University should also meet. Petitioner requests the Commission mandate that a radio station provide not only 1) Meaningful management presence (which is nonexistent in this specific instance) , but, also 2) A local public inspection file (which does not exist in this specific instance) ; 3) Local programming of at least 12 hours per day (Which does not exist in this instance); and require that ALL Licensees that do not meet this standard allow others to use their facilities.

Petitioner is open to an engineering proposal from Western Kentucky University, with appropriate waivers form the Commission to allow another station, on another frequency, to be provided for the use of Hoosier Public Radio.

If such a resolution is permitted Hoosier Public Radio Corporation will allow the policy statement by the Commission with respect to localism and local programming to speak as a remedy for the hundreds of other communities not receiving local programming from their local station.

Petitioner's proposal will provide service and will also allow resolution to those listeners of WKPB to share in the positive aspects of this resolution.

Petitioner requests no punitive actions regarding WKPB's violations of Rules and lack of local studio, public inspection file, or meaningful management presence if Petitioner's proposal is granted with appropriate waivers.

Respectfully Submitted

Martin L. Hensley  
Hoosier Public Radio Corporation

Certificate Of Service

Petitioner has provided a copy of this filing and attachment to the FCC 445 12th St SW Washington DC 20554 and to WKPB Western Kentucky University at their Bowling Green Kentucky location of 1 Big Red Way Bowling Green Kentucky 42101. Petitioner notes the station has no local address, public inspection file, or place that receives mail for the station and the mailing address is in another part of the State.